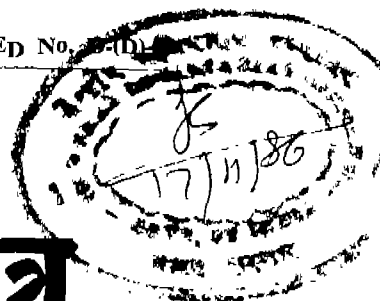




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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 18th July, 1986:—

I

BILL NO. XIX OF 1986

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1986.
2. In article 324 of the Constitution, after clause (6) the following clause shall be inserted, namely:—

“(7). The Chief Election Commissioner and any other Election Commissioner shall not be eligible for any office either under the Government of India or under the Government of any State or for appointment as Governor of any State or for appointment to any diplomatic assignment after he has ceased to hold his office.”.

Short
title.

Amend-
ment of
article
324.

STATEMENT OF OBJECTS AND REASONS

Office of the Chief Election Commissioner and Office of other Election Commissioners are very important offices. Complete independence of the Election machinery in our country is as much important as the independence of judiciary. The Election Commission plays a key role in the conduct of elections to Parliament and State Legislatures, and as also in other elections. The Chief Election Commissioner and the Election Commissioners, who are responsible for the conduct of free and fair elections in the country, should be free from allurements by way of appointment to any other office to be made by Government after they cease to hold their office.

This Bill, therefore, seeks to achieve the aforesaid objective.

SATYA PRAKASH MALAVIYA

II.

BILL No. XVII OF 1986

A Bill to provide for the banning of the capitation fee charged by educational institutions and for matters connected therewith.

Enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Prohibition of Capitation Fee Act, 1986.

Short
title.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) “appropriate Government” means the Central Government, in respect of those educational institutions which fall within its jurisdiction and the State Government concerned, in respect of those educational institutions which fall within the jurisdiction of that Government.

(b) “capitation fee” means and includes a fee or any other consideration charged, in one lump sum or in instalments, directly or indirectly, by an educational institution for giving admission to candidates, exclusive of the prescribed admission or tuition or other fees approved by the educational authorities.

Explanation.—"capitation fee" shall not include donations received by an educational institution from a donor without any condition and the donation is not directly or indirectly related to the admission of any person in that institution.

(c) "educational institution" means and includes any school, college or institute, whether established by Government or by any citizen or body of citizens, and whether in receipt of aid from Government or not, recognised by the appropriate Government for the award of a certificate, diploma or degree in any general, technical, professional or other course of study, education or training.

Institutions
not to
charge
capita-
tion fee.

3. No educational institution shall charge any capitation fee at the time of granting admission to any course of study, education or training for which it has been established or recognised by the competent authority for the award of a certificate, diploma or degree, or at any time later.

Criteria
for giv-
ing ad-
mission.

4. Admission to an educational institution shall be on the basis of merit, subject to the reservation permitted in accordance with law in favour of persons belonging to the Scheduled Castes, Scheduled Tribes and educationally and socially backward classes and in favour of persons belonging to religious and linguistic minorities in educational institutions of their choice established and administered by them under clause (1) or article 30 of the Constitution:

Provided that selection of persons under the reserved quota from among the eligible candidates shall be on the basis of merit.

Institu-
tions
charging
capita-
tion fee
to be
taken
over.

5. (1) If any educational institution is found to be charging a capitation fee, the appropriate Government shall take over the institution forthwith by an order published in the Official Gazette:

Provided that if the circumstances so require, the appropriate Government may, without taking over the institution as aforesaid, by an order published in the Official Gazette, direct that such an institution shall, in the public interest, be closed down forthwith or be administered in such manner as may be prescribed in the order.

(2) Any order made under sub-section (1) may contain all matters which may be necessary for carrying out the provisions of this Act.

(3) Every order made under this section shall be laid on the Table of each House of Parliament or of one or both Houses of the Legislature of a State as the case may be.

Punish-
ment for
charging
capita-
tion fee.

6. Without prejudice to any action which may be taken under section 5, the President and the Secretary of the Managing Committee as well as the head of the educational institution which charges capitation fee shall be punishable with a fine which may extend to rupees fifty thousand or imprisonment for a period of not less than three years or with both.

STATEMENT OF OBJECTS AND REASONS

It is now fairly known to everybody that capitation fee is charged for admission of students in institutions of higher learning, particularly in engineering and medical colleges, in States like Bihar, Andhra Pradesh, Karnataka, etc. It is alleged that the fee being charged ranges from Rs. 1.5 lakh to Rs. 2.5 lakh. There are reports that private engineering and medical colleges in some States are charging capitation fee at the rate of about Rs. 70,000 for a local student and Rs. 1.6 lakh for an outsider. Many private colleges in some States have been flourishing on the collective income from capitation fee. All measures to stop this evil practice have failed because of the patronage enjoyed by the College-Managements concerned.

The use of large sums of money for securing admission into any institution of learning, violates the principle of offering equal opportunity to eligible candidates. To guarantee this equal opportunity to all deserving candidates, admissions ought to be given on the basis of merit alone, subject to the reservations prescribed by laws.

The capitation fee system provides scope for clandestine links between politicians and the educational institutions, which largely accounts for mushroom growth of unauthorised educational institutions and also for siphoning off black money and then legalising it.

The Bill, therefore, proposes to ban charging of capitation fee and thereby seeks to do away with this evil practice.

CHITTA BASU

III

BILL NO. XIV OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title.

Amendment of
Eighth
Schedule.

1. This Act may be called the Constitution (Amendment) Act, 1986.
2. In the Eighth Schedule to the Constitution,—
 - (a) entries 9 to 15 shall be re-numbered as entries 10 to 16 respectively; and
 - (b) before entry "10" as so re-numbered, the entry "9. Nepali" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Nepali is a daughter language of Sanskrit. The Nepali script is definitely Indian, as there is no difference between the Devnagari script used for modern Hindi and the script used for modern Nepali. Bengali and Nepali languages have very close affinity. There are on a modest estimate, two to three crores of Nepali-speaking people in India. The actual figure might be much higher, as Nepali is one of the dominant languages of the lower Himalayan and sub-Himalayan regions. As a matter of fact, Nepali is more or less *lingua-franca* used throughout the Himalayan region.

It is, therefore, in the fitness of things that the language be added to the Eighth Schedule of the Constitution.

Hence, this Bill.

CHITTA BASU.

IV

BILL NO. XV OF 1986

A Bill to repeal the Police Forces (Restriction of Rights) Act, 1966.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Police Forces (Restriction of Rights) Repeal Act, 1986.

Repeal
of Act
33 of
1966.

2. The Police Forces (Restriction of Rights) Act, 1966 is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Police Forces (Restriction of Rights) Act, 1986, denies the police personnel the right to form association and to the freedom of speech.

The Constitution of our country, indeed, provides for reasonable restrictions on the fundamental freedoms as enunciated under article 19 of the Constitution. But, the restrictions imposed upon the police men under this Act are not reasonable. The restrictions, as provided under section 3 of the Act and the penalty provided for under section 4 thereof, transgress the limits of reasonableness, and thus tantamount to negation of the fundamental rights of citizens. The purpose of the Act was to enforce the so-called discipline in the ranks of the police forces. The spurt of agitations by the police personnel in different States in the recent past, unerringly reflects that the Act has defeated the purpose for which it was brought into being. This piece of legislation is undemocratic and smacks of authoritarianism and bureaucratic attitude on the part of administration. This is, thus, a blot on our Statute Book and needs to be erased.

The Bill seeks to achieve this object.

CHITTA BASU

V

BILL No. XXIV of 1986

A Bill further to amend the Constitution of India,

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short
title and
commen-
cement.

1. (1) This Act may be called the Constitution (Amendment) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion
of new
article
333A.

2. After article 333 of the Constitution the following article shall be inserted, namely:—

Reserva-
tion of
seats for
Scheduled
Castes and
Scheduled
Tribes in
Pancha-
yats, etc.

“333A. Seats shall be reserved for the Scheduled Castes and Scheduled Tribes in a panchayat and other local body in rural areas, a taluka board, a town municipality and a municipal corporation in a metropolitan city, in every State.”

STATEMENT OF OBJECTS AND REASONS

In our country some constituencies for election to the Lok Sabha and State Legislative Assemblies have been reserved for the Scheduled Castes and Scheduled Tribes. This has been done for the welfare of the Scheduled Castes and Scheduled Tribes. However, there is no such reservation for Scheduled Castes and Scheduled Tribes in local bodies in the country. The organisations of Scheduled Castes and Scheduled Tribes have been demanding for such reservation on the basis of their population. Hence, the need for reservation of seats in such elections for SC/ST is being strongly felt where majority of voters are SC/ST. A few years back, Tamil Nadu Legislative Assembly had also adopted a Resolution recommending to the Central Government to suitably amend the law to give due representation to the SC/ST in Local Bodies. No such amending Bill has so far been brought forward by the Central Government. Hence this Bill to reserve some of the seats for members of the SC/ST in local Bodies.

N. RAJANGAM

VI

BILL No. XXV OF 1986

A Bill further to amend the Constitution (Scheduled Castes) Order, 1950.

Enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 1986.

Insertion of new paragraph 3A. 2. In the Constitution (Scheduled Castes) Order, 1950, after paragraph 3, the following paragraph shall be inserted, namely:—

“3A. Notwithstanding anything contained in paragraph 2 or paragraph 3, every person who professes Christian religion and who has been of Scheduled Caste origin shall be deemed to be a member of a Scheduled Caste for the purposes of this Order.”.

STATEMENT OF OBJECTS AND REASONS

The Christians of Scheduled Caste origin continue to suffer the same stigma of untouchability and consequent social, educational and economic disabilities as their counterparts in the Hindu and the Sikh religions. Though recently Supreme Court has expressed its inability to help the Scheduled Castes of the Christians faith in absence of unassailable evidence to prove that Christians of Scheduled Castes origin suffer the same drawbacks as their counterparts in the Hindu and the Sikh religions. However, the fact remains that the Christians of Scheduled Caste origin suffer similar disabilities as their counterparts, referred to earlier.

No Christian of Scheduled Caste origin enjoys an elevated advantageous position just because of his new faith. On the other hand he comes to be treated as an untouchable, with all the consequent disabilities of the Scheduled Caste belonging to other faiths.

Para 3 of the Constitution (Scheduled Castes) Order, 1950 places the Scheduled Castes belonging to the Hindu and the Sikh religions on a definite advantage as compared to their counterparts in the Christians faith. The provision as it stands today is against the concepts of equality and secularism and defeats the very purpose for which reservations for the Scheduled Castes have been provided for in the Constitution. The Scheduled Castes receive a special attention because of their disabilities and not because they belong to a particular religion.

So, this Bill seeks to undo the injustice being meted out to the Scheduled Castes of Christian faith.

VALAMPURI JOHN

SUDARSHAN AGARWAL,
Secretary-General.

